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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/508,195	03/08/2000	David Hardern	3764-2	2221

7590 02/19/2002

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EXAMINER

FORD, JOHN M

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 02/19/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/508,195

Applicant(s)

HARDERN ET AL.

Examiner

John M. Ford

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1--6, 14, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1--6, 14, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☒ Other: Exhibit A

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Applicants response of Dec. 26, 2001, is noted.

The claims in the application are claims 1--6, 14, 17 and 18.

The application cannot be allowed because of the vague indefinite, utility statement in claim 14; the length of claim 18, and the ~~use~~ of the word "solvate" in claim 1.

Now comes an overlap problem with U.S. Patent 6,251,910. I assume applicants are attempting to swear around U.S. Patent 6,251,910 with a 131 declaration.

Old Rule 141 called for no more than 5 species in a claim, then it was amended to a reasonable number. Claim 18 does not contain a reasonable number of ultimate species. Note Commissioner Wahl's memo Exhibit A the word "different" claims has been added to Rule 141 in view of the attempt by some to avoid fees by lumping these ultimate species in one claim. Claim 18 is rejected as not complying with Rule 141.

Curious Language: "of the nine compounds exemplified in the present application, five were synthesized prior to Sept. 21, 1998," ~~What~~ about the other 4?

35 U.S.C. 104 has been removed. In an Interference situation, U.S. Patent 6,251,910 can go back into ~~Swe~~den, prior to its priority of July 22, 1997, into the Lab. books there.

Therefore, the overlap present in the claims, here, permits ~~Guide~~^{eral} to block the issuance of a patent here. Two patents may not issue to the same thing without an Interference.

Claim 1 is rejected under 35 U.S.C. 112, 2nd paragraph. It is not clear in the last line of claim 1 what a solvate of the compound would be. What is the point of bonding of the solvate to

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the rest of the molecule. What is the structure of the compound claimed. Applicants language becomes more remote by adding "or a solvate of such a salt", ~~What~~ what would that be?

Claim 1 is rejected under 35 U.S.C. 112, 1st paragraph. How could applicants claim all solvates; support? Much less, all solvates of all salts.

Claim 14 is rejected under 35 U.S.C. 112, 1st paragraph, the word "prevention" need be removed from line 1, and one platelet aggregation disorder inserted. The Utility guide lines require one specific utility that relates to the real World of Commence. Further, this is a 371 application. 37 CFR 1.475 requires that only one utility will be examined in 371 applications, See col. 1 of U.S. Patent 6,251,910. More than one use. See cols. 9-10 of U.S. Patent 6,251,910. Applicants should amend claim 14 to treating one specific use. Canceled claims 7--13, here list quite a few possibilities, all unacceptable, but a start. The specification, here, page 1, suggests treating unstable angina; *more reasonable.*

J. Ford:jmr

Feb. 8, 2002



JOHN M. FORD
PRIMARY EXAMINER
GROUP - ART UNIT 1624

Exhibit A *Seal to*
Public

U.S. DEPARTMENT OF COMMERCE

OFFICIAL GAZETTE of the UNITED STATES PATENT OFFICE

September 10, 1968

Volume 854

Number 2

PATENTS

NOTICES

Board of Appeals Decisions Rendered in the Month of June 1968

Examiner affirmed	121
Examiner affirmed in part	14
Examiner reversed	30
Total	165

generic claims that might be present. If generic claims are found allowable, no change in the practice currently in effect is contemplated.

RICHARD A. WAHL,
Assistant Commissioner.

Aug. 19, 1968.

Public Search Room

Due to budget and personnel limitations which took effect on July 1, 1968, it has become necessary to adopt measures that are consistent with these limitations and that will permit continuance of Patent Office activities and facilities without curtailing their use to the public. Among these measures is the service of returning to the files those patent bundles used by the attorneys and the general public in the Public Search Room.

Beginning August 19, 1968, in order that free access to the stacks may be maintained, persons drawing patent bundles from the search files will be expected to return them to the file slots from which they were withdrawn.

This will enable the personnel in the Public Search Room to concentrate their time and efforts on the necessary updating and storage maintenance for improvement of the integrity of the search files.

RICHARD A. WAHL,
Assistant Commissioner.

Aug. 12, 1968.

Dependent Claims

The Notice on dependent claims of June 8, 1966 (828 O.G. 1) is modified as follows:

With particular reference to the second full paragraph, claims dependent on a genus which purport to be dependent but are in fact ultimate species do not qualify as true dependent claims. Exemplary of such claim forms are those which depend on a formula but which recite all variables in such manner that no further specificity is possible as well as those claims which name a specific compound and add, "according to claim 1" which is superfluous as far as the claim content is concerned. In summary, claims to ultimate species are not considered dependent claims. Although accepted for filing, claims of this type will be objected to and not acted on unless made independent by amendment and supported by the appropriate fee.

RICHARD A. WAHL,
Assistant Commissioner.

Aug. 19, 1968.

Disclaimer

3,256,407.—*Keith W. Klein*, Simsbury, Conn. CIRCUIT BREAKER AND ACCESSORY DEVICE COMBINATION. Patent dated June 14, 1966. Disclaimer filed June 11, 1968, by the assignee, *General Electric Company*.

Hereby enters this disclaimer to claim 1 of said patent.

Election of Species

The practice set forth in the Notice of May 4, 1967 (838 O.G. 1223) is made permanent and modified to permit a requirement for election of species in cases involving multiple species whether or not generic claims are present or searched prior to the election. Also, if no claims to species are presented but the generic claim is of the burdensome type referred to in the Notice, a requirement for election of species prior to search of the generic claims should be made.

As in the original Notice, if an election is made pursuant to a telephone requirement, the action should include a full and complete action on the elected species as well as on any

Paragraph Requirements for Abstracts

In view of some difficulties experienced in determining the extent of the abstracts, the Patent Office is supplementing the Notice of October 7, 1966 (831 O.G. 1828).

An abstract should usually be limited to a single paragraph, under the heading, "Abstract of the Disclosure" as stated in Rule 72(b) and MPEP 608.01(b).

In unusual circumstances where the application disclosure does not lend itself to a single paragraph abstract, a plural paragraph abstract may be acceptable. An example of these rare situations would be an application having claims to different statutory classes, it being recognized that an abstract of the disclosure should be written to include the advancement in the art.

To avoid errors in printing where a plural paragraph abstract is deemed necessary and appropriate, the complete abstract must be set off by suitable headings to indicate where the abstract begins and ends. Appropriate headings useable between the abstract and the subsequent description are to be found in the "Guidelines for Drafting a Model Patent Application Under the Revised Rules" (832 O.G. 5; MPEP 608.01(a)).

RICHARD A. WAHL,
Assistant Commissioner.

Feb. 16, 1968.

New Applications Received During June 1968

Patents	7469
Designs	383
Plant Patents	5
Reissues	9
Total	7866

Issue—September 10, 1968

Patents	1000—No. 3,400,406 to No. 3,401,405, incl.
Designs	22—No. 212,183 to No. 212,204, incl.
Plant Patents	3—No. 2,831 to No. 2,833, incl.
Reissues	4—No. 26,452 to No. 26,455, incl.
Total	1029